

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ROBERT “BOB” ROSS AND EUGENIO VARGAS

Plaintiffs/Counterclaim Defendants,

V.

ASSOCIATION OF PROFESSIONAL§
FLIGHT ATTENDANTS, *et al.*, §

Defendants/Counterclaim Plaintiffs.

Civil Action No. 4:22-cv-343-Y

Consolidated with
Civil Action No. 4:22-cv-430-Y

Judge Terry R. Means

**MOTION AND BRIEF IN SUPPORT FOR MANDATORY WITHDRAWAL OF
COUNSEL AND EXTEND PLAINTIFFS' DEADLINE TO FILE AMENDED
RESPONSE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Kerri Phillips, attorney of record for Plaintiffs, in accordance with Local Rules 5.1, 7.1, 7.2, 53.1 and 83.12, and brings this Motion for Withdrawal of Counsel. Kerri Phillips requests the Court issue and order complying with Tex. R. Disc. Prof'l Cond. 1.15(a)(1), which requires a mandatory, rather than permissive, withdrawal as counsel of record for Plaintiffs and in support thereof would show the Court:

I. Arguments and Authorities

Good cause exists for a mandatory withdrawal of Kerri Phillips as counsel of record for Plaintiffs in that circumstances have developed that make it impossible for her legal representation to continue. Facts have recently come to Counsel's attention

that create a conflict of interest.

The Tex. R. Disc. Prof'l Cond. 1.15(a)(1) states that “a lawyer *shall* decline to represent a client or where representation has commenced, shall withdraw. . . from the representation of a client, if (1) the representation will result in violation of. . . other applicable rules of professional conduct or law.” (emphasis added) (Tex. R. Disc. Prof'l Cond. 1.15(a)(1)). A mandatory withdrawal as counsel in this matter is required as continued representation would violate the Tex. R. Disc. Prof'l Cond. 1.06(b)(2) which prevents a lawyer from the representation of that person if it “reasonably appears to be or become adversely limited by the lawyers or law firm's responsibilities to another client or to a third person or by the lawyers or law firm's own interests.” (Tex. R. Disc. Prof'l Cond. 1.06(b)(2)).

II. Facts

On or about August of 2024, facts came to light related to Mr. Ross that gave rise to a conflict of interest in the case pending before this Court. (App. p. 2, Aff. of Kerri Phillips, ¶4). Counsel is unable to disclose those facts that gave rise to such conflict as a possible breach of the clients' confidentiality could cause substantial harm to her clients and a subsequent violation of the Texas Rules of Professional Conduct. (Tex. R. Disc. Prof'l Cond. § 4.04). However, those facts that give rise to a conflict substantially interfere with Counsel's ability to pursue claims or defenses on behalf of either client's best interest on those matters pending before this Court. (App. p. 2, Aff. of Kerri Phillips, ¶5).

Additionally, Plaintiffs' Counsel consulted with the State Bar of Texas Ethics

Counsel who advised that, under the current facts at issue creating the conflict, the undersigned counsel's withdrawal is mandatory (Tex. R. Disc. Prof'l Cond. 1.15(a)(1). (App. p. 2, Aff. of Kerri Phillips, ¶ 5).

It is submitted that withdrawal can be accomplished without material adverse effects in the interests of the clients as there is no trial setting in the case at present. To that end, Plaintiffs move the Court for a 30-day extension to its deadline to file an Amended Response to Defendants Motion for Summary Judgment to afford Plaintiffs a fair opportunity to retain successor counsel and meet the deadline set out by this Court. Mr. Ross has consulted with other counsel on the matters related to this case, however the undersigned counsel has not been informed as to whether substitute counsel has been retained. (App. p. 2, Aff. of Kerri Phillips, ¶ 6).

II.

Defendants have advised the undersigned counsel that they are not opposed to this motion. A request was made seeking Plaintiffs agreement or opposition to the current Motion to Withdraw in compliance with L.R.7.1(a). Plaintiff, Ross, opposes the filing of this Motion to Withdraw. Plaintiff, Vargas opposes the filing of this Motion to Withdraw.

This motion is filed as a mandatory withdrawal due to the conflict of interest and inability to communicate with clients which makes continued legal representation an impossibility as evidenced by the Affidavit of Kerri Phillips attached hereto and marked as the appendix to this Motion.

A copy of this motion has been delivered to the Plaintiffs, who are hereby

notified of their right to object to this motion. Plaintiffs have informed Counsel that they have consulted with possible substitute counsel; however, the undersigned counsel has not been informed that substitute counsel has been formally engaged at this time. (App. p. 2, Aff. of Kerri Phillips, ¶ 7). Therefore, the undersigned counsel reasserts her request on Plaintiffs' behalf for a thirty-day extension to file an Amended Response to the Motion for Summary Judgment, as successor counsel is unknown at this time, however this extension would provide Plaintiffs the required time to formally engage successor counsel and meet the Court's deadline.

The last known address of Plaintiff, Robert "Bob" Ross is 4701 Hayloft Ct. El Dorado Hills, California 95762, contact telephone number is (916) 284-2402, and email address is lrross@comcast.net. The last known address of Plaintiff, Eugenio Vargas, is 1616 Brookhaven Cir, Bedford, Texas 76022, telephone number is (401) 952-7126, and email address is medellin3@hotmail.com.

III. NOTICE TO CLIENT

THE CURRENT DEADLINE TO FILE AN AMENDED RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IS DUE ON SEPTEMBER 30, 2024. THE UNDERSIGNED COUNSEL SEEKS A 30-DAY EXTENTION ON PLAINTIFFS' DEADLINE TO FILE AN AMENDED RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IF ITS MOTION TO WITHDRAW IS GRANTED WHICH IMPOSES A NEW DEADLINE OF OCTOBER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above motion was sent to Defendants' counsel via email, in accordance with the Texas Rules of Civil Procedure on September 17, 2024. A copy of this motion was also sent to the Plaintiffs, Robert "Bob" Ross and Eugenio Vargas at their last known address via First Class and Certified U.S. mail on September 17, 2024.

/s/Kerri Phillips
Kerri Phillips

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